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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/701,879	11/05/2003	Amar K. Mohanty	MSU 4.1-617	6700
21036	7590	03/23/2007		
MCLEOD & MOYNE, P.C. 2190 COMMONS PARKWAY OKEMOS, MI 48864			EXAMINER DANIELS, MATTHEW J	
			ART UNIT 1732	PAPER NUMBER
			MAIL DATE 03/23/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

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**Advisory Action**  
**Before the Filing of an Appeal Brief**

Application No.

10/701,879

Applicant(s)

MOHANTY ET AL.

Examiner

Matthew J. Daniels

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**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 12 March 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 1-7, 9-15 and 17-22.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See the enclosed response to arguments.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

Continuation of 3. NOTE: The new limitations have not been previously considered and would require at least further search and consideration..

1. Please note that this application has been transferred to examiner Matthew J. Daniels.
2. Also note that amendment after final rejection purports to be an amendment under 37 CFR 1.114(a), See page 1 of the reply. However, the amendment appears to be an amendment made after final rejection under 37 CFR 1.116 instead, and the fee for a request for continued examination has not been paid or requested in Applicant's reply. This amendment has been treated as an after-final amendment under 37 CFR 1.116.

*Response to Arguments*

3. Applicant's arguments filed 12 March 2007 have been fully considered but they are not persuasive. The arguments appear to be on the following grounds:
  - a) There is no teaching of the cut fibers from a leaf, seed, stalk, or combination thereof, and Sears does not recognize the problem of temperature degradation of natural cut fibers from a plant, leaf, seed, stalk, or combination.
  - b) Sears uses cellulosic pulp fibers with an alpha-cellulose purity of greater than 80%, which is not a temperature sensitive natural cut fiber from a plant leaf, seed, stalk, or combination.
  - c) Sears does not teach the addition of a metal salt to a pre-dried thermoplastic polymer.
  - d) Sears does not teach a two-step extrusion process.
  - e) Cobb is concerned with melt fracture at temperatures above 200 C, and therefore does not recognize the problem or the Applicants' solution. Cobb does not teach the addition of fibers because they would create a problem with the finish of the article. See 6:17-23.
  - f) Hamada molds at temperatures at far above 200 C.

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g) Sato describes fillers, but they are not cut from fibers from a plant, leaf, seed, stalk, or combination thereof.

4. These arguments are not persuasive for the following reasons:

a, b, c, g) These arguments are drawn to claim limitations which are not being entered. To the extent that Applicant's remarks indicate that Sears teaches cellulosic pulp fibers with an alpha-cellulose purity of greater than 80%, which Applicant further asserts not to be temperature sensitive, the Examiner responds that there is no evidence in the record or pointed out in the reference to Sears which supports this assertion.

d, e, f) In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

In particular, the Examiner respectfully disagrees that there is no teaching or suggestion of a two-step process taught by Sears. Sears provides pellets of the thermoplastic polymer composition at Par. [0035] which would obviously have been formed by a pelletizing process, or alternatively suggests that a pelletizing process should be used. This teaching would motivate one of ordinary skill to select well known pelletizing methods, such as that of Hamada, in order to produce pellets. Next, the polymer pellets are mixed with the natural filler and extruded (See Pars. [0035], [0036], and [0043]), meeting the two-step process.

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Note also that the rejection of Claims 107, 9-15, and 17-22 contains an error in the US Patent number associated with the Sato reference. The number shown is "4,619,879", however, the correct number, as cited by Applicants' information disclosure statement, is 4,619,962.

Additionally, with respect to the Cobb reference, Cobb does not actually teach away from fibers at 6:17-23. This portion of the Cobb reference (6:17-23) is reproduced below:

20      The reduction in melt fracture of profiles as a result of the present invention solves a much need problem in the thermoplastic extrusion industry. By addition of the organic zinc salts to the amorphous or semicrystalline polyesters, an extruded article formed therefrom is able to be processed at lower temperatures and higher speeds while resulting in a profile that is clear.

While Cobb does suggest a reduction in melt fracture, the Examiner respectfully disagrees that Cobb teaches or suggests that fibers cause melt fracture or are otherwise undesirable. In particular, Cobb suggests that fillers may be used (4:36-39), implicitly suggesting that fillers do not cause a reduction in melt fracture, and further suggesting a combination.

Hamada teaches a well known pelletizing process for forming polymer pellets, which is not interpreted to teach away from the combination.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew J. Daniels whose telephone number is (571) 272-2450. The examiner can normally be reached on Monday - Friday, 8:00 am - 4:30 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson can be reached on (571) 272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MJD 3/21/07

*MJD*

*cf*  
CHRISTINA JOHNSON  
SUPERVISORY PATENT EXAMINER

*3/22/07*